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PTO/SB/21 (09-04)

<b>PATENT TRANSMITTAL FORM</b> <small>(to be used for all correspondence after initial filing)</small>	Application Number	10/502,001	
	Filing Date	July 19, 2004	
	First Named Inventor	Malek, Nisar P.	
	Art Unit	1632	
	Examiner Name	Valerie B. Bertoglio	
Total Number of Pages in This Submission	3	Attorney Docket Number	14538A-006610US

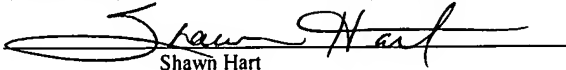
ENCLOSURES (Check all that apply)				
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<input type="checkbox"/> Reply to Missing Parts/ Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Request for Refund	Return Postcard; Response to Restriction Requirement		
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<table border="1"><tr><td>Remarks</td><td>The Commissioner is authorized to charge any additional fees to Deposit Account 20-1430.</td></tr></table>			Remarks	The Commissioner is authorized to charge any additional fees to Deposit Account 20-1430.
Remarks	The Commissioner is authorized to charge any additional fees to Deposit Account 20-1430.			

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm Name	Townsend and Townsend and Crew LLP		
Signature			
Printed name	Nicholas V. Sherbina		
Date	May 10, 2006	Reg. No.	54,443

CERTIFICATE OF TRANSMISSION/MAILING			
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By:

  
Shawn Hart



PATENT  
Attorney Docket No. 14538A-006610US

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re the application of:

NISAR P. MALEK *et al.*

Application No.: 10/502,001

Filed: July 19, 2004

For: COMPOSITIONS AND METHODS  
FOR INCREASING ANIMAL SIZE  
AND GROWTH RATE

Examiner: Valarie E. Bertoglio

Art Unit: 1632

**RESPONSE TO RESTRICTION  
REQUIREMENT**

Assistant Commissioner for Patents  
Washington, D.C. 20231

Dear Sir:

In response to the Restriction Requirement dated April 11, 2006, Applicants elect, with traverse, to prosecute Group II, claims 1-9, drawn to an isolated transgenic cell having an exogenous transgene encoding a mutant p27 located at the endogenous p27 locus. Applicants reserve the right to file divisional or related applications directed to the claims of non-elected groups.

With respect to Applicants' traversal, under PCT Rule 13.2, the requirement for unity of invention among a group of inventions is fulfilled where the inventions share at least one special technical feature, *i.e.*, a technical feature defining "a contribution which each of the claimed inventions, considered as a whole, makes over the prior art." MPEP § 1850 (citing PCT Rule 13.2). In this case, all claims of Groups I, II, and VII-X, as well as claims 10-14 forming part of Groups III-VI, recite a p27<sup>Kip1</sup> polypeptide lacking a Cdk2 phosphorylation site. The Examiner has not pointed to any reference or other evidence showing that this technical feature is not novel and inventive over the prior art. Accordingly, Applicants submit that the present restriction requirement is improper at least insofar as it has been applied to claims 1-14 and 19-37.

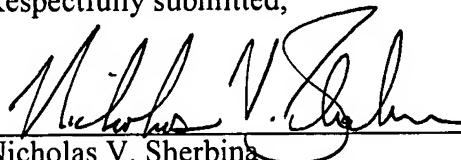
The Examiner, in asserting that unity of invention is lacking among Groups I-X, contends that "[u]nity of invention between different categories of inventions will only be found to exist if the specific combinations of inventions are present." *See* Office Action dated 4/11/06, page 3. Applicants note that the pertinent section of the MPEP with respect to "Combinations of Different Categories of Claims" is MPEP § 1850 (III)(A). MPEP § 1850 (III)(A) specifically states that determining unity of invention under PCT Rule 13 "shall be construed as permitting, in particular, the inclusion [of certain category combinations]." *Id.* However, contrary to the Examiner's position, this section of the MPEP does not specify that "only" these category combinations are permitted. In particular, there is no indication that combinations other than those listed should be construed as lacking unity of invention where these categories otherwise share at least one special technical feature as specified by PCT Rule 13.2. Accordingly, as the Examiner has not shown that the claims lack a shared special technical feature over the art as discussed above, MPEP § 1850 (III)(A) is not a proper basis for restricting the pending claims.

For the reasons above, Applicants respectfully request withdrawal of the present restriction requirement at least insofar as it has been applied to claims 1-14 and 19-37. In particular, along with the elected Group II, Applicants request rejoinder of at least Groups I and VII-X, as well as that part of Groups III-VI corresponding to claims 10-14.

If for any reason the Examiner feels that a telephone conference would expedite prosecution of the subject application, the Examiner is invited to telephone the undersigned at 206.467.9600.

Respectfully submitted,

Dated: May 10, 2006

By:   
Nicholas V. Sherbina  
Reg. No. 54,445

TOWNSEND and TOWNSEND and CREW LLP  
Two Embarcadero Center, 8<sup>th</sup> Floor  
San Francisco, CA 94111  
(206) 467-9600  
NVS/seh  
60763556 v1